

**REMARKS**

The Office Action mailed May 25, 2006, has been received and reviewed. Claim 17 is objected to and claims 19 and 25 stand rejected. Claims 12, 14, 15, 17, 18, 22-24, 26, and 27 are allowed. The application is to be amended as previously set forth. All amendments are made without prejudice or disclaimer. No new matter has been added. Reconsideration is respectfully requested.

As this response is filed within four (4) months of the mailing date of the Office Action (mailed May 25, 2006), submitted herewith is a Petition for Extension of Time (1 month) pursuant to 37 C.F.R. § 1.136(a).

Claim Objections

Claim 17 stands objected to as it was thought that specification fails to provide proper antecedent basis for the claimed subject matter. Office Action mailed May 25, 2006, at page 2. Applicants note that the Specification has been amended at paragraph [0026] in order to more clearly provide antecedent basis for claim 17. Applicants respectfully submit that basis for the amendment to the specification can be found at least in original claim 17. As such, applicants respectfully submit that the objection to claim 17 has been overcome and respectfully request reconsideration of same.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claim 25 stands rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification. This is a new matter rejection. Specifically, it was thought that the phrase “a gene that codes for herpes simplex virus thymidine kinase” represents a departure from the specification and the claims as originally filed. Office Action mailed May 25, 2006, at page 3. Applicants respectfully traverse the rejection as hereinafter set forth.

Applicants respectfully note that the last sentence of paragraph [0048] clearly refers to suicide genes that are described in reference 41. Applicants further note that the title of reference 41 clearly refers to herpes simplex virus thymidine kinase (HSV-TK). As such, applicants

respectfully submit that the phrase “a gene that codes for herpes simplex virus thymidine kinase” does not represent a departure from the specification as filed and is thus cannot be considered as new matter. Consequently, applicants respectfully request the withdrawal of the rejection of claim 25 under 35 U.S.C. § 112, first paragraph, and reconsideration of same.

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claim 19 stands rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. Specifically, it was thought that the term “a cytotoxic T-cell” was indefinite because the term fails to define the specificity of the cytotoxic T-cell. Office action mailed May 25, 2006, at page 3. Applicants respectfully submit that the amendments to claim 19 overcome the rejection.

Although the applicants do not agree that any of the claims are indefinite, to expedite prosecution, claim 19 has been amended herein. Specifically, claim 19 has been amended to recite “an isolated VLXDDLLEA (SEQ ID NO: 1) peptide specific cytotoxic T-cell.” As such, applicants respectfully submit that claim 19, as amended, specifically defines the specificity of the cytotoxic T-cell. Consequently, applicants respectfully request the withdrawal of the rejection of claim 19 under 35 U.S.C. § 112, second paragraph, and reconsideration of same.

**CONCLUSION**

In light of the above amendments and remarks, applicants respectfully request reconsideration of the application. If questions remain after consideration of the foregoing, or if the Office should determine that there are additional issues which might be resolved by a telephone conference, the Examiner is kindly requested to contact applicants’ attorney at the address or telephone number given herein.

**Attorney Docket No.: 2183-4285.1US**

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Daniel J. Morath', with a stylized flourish at the end.

Daniel J. Morath, Ph.D.  
Registration No. 55,896  
Attorney for Applicants  
TRASKBRITT, P.C.  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922

Date: September 25, 2006